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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/799,928	03/12/2004	Alexander Tregub	10559-895001	6844

20985 7590 06/14/2006

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EXAMINER
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NUTTER, NATHAN M

ART UNIT	PAPER NUMBER
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1711

DATE MAILED: 06/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Applicati n N .

10/799,928

Applicant(s)

TREGUB ET AL.

Examiner

Nathan M. Nutter

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 April 2006.  
2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.  
4a) Of the above claim(s) 3-8 and 13-15 is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1,2,9-12 and 16-19 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 23 August 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Election/Restrictions*

Applicant's election with traverse of Group I, claims 1, 2, 9-19, and the species of a cyclic fluorocarbon oxygen containing polymer and the species of claims 1, 2, 9-12 and 16-19, in the reply filed on 17 April 2006 is acknowledged. The traversal is on the ground(s) that "the members of the Markush group...are sufficiently few in number and are closely related," and "all...are amorphous fluoropolymers." This is not found persuasive because the number of species is not relevant here since the species are so different, as opposed to the allegations of applicants. The first and third have a separate classification (525/200) from the first (525/199). A skilled artisan would not look to the polyimide art for a heterocyclic polymer, nor to a polyether for either of the others recited. Applicants' contentions concerning paragraph [0017] are unfounded. One of skill would not look at all polyolefins when a search of polypropylene would be in order, just because they share tacticity or crystallinity. Since a serious burden is placed upon the Office to consider the combinations of polyvinylidene fluoride with each of the recited species, all will not be examined at this time. Applicants erroneously, and with frequency, assert that the rules for ***Unity of Invention*** for PCT and national stage applications should be followed. This is incorrect reasoning since this is not a national stage application and the rules for United States patent practice apply. Applicants are requested to review the subject as presented in the MPEP more carefully. Further, with regard to the request for rejoinder, it appears that this will not be forthcoming. The elected claims are not drawn to the solvent composition as employed in the method of

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the Group II claims. therefore, since it is not a method of making or a method of using the elected composition, applicants will not be entitled to a rejoinder of these claims if the product claims are deemed to be allowable.

The requirement is still deemed proper and is therefore made FINAL.

### ***Specification***

The disclosure is objected to because of the following informalities: the recitation of "CYTOP" is not proper. This appears to be a trademark and not a recognized compound or composition. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

Appropriate correction is required.

### ***Claim Interpretations***

The claims recite a "co-polymer" and defines a polymer blend, i.e. a combination in admixture of two polymers. The concept of copolymer is art-recognized to mean a polymer that is composed of two different monomer units polymerized together. A mixture of two polymers is a blend, not a "co-polymer." Further, the nature of a pellicle is as a film. The article claims, since they require the polymer blend (apparently) recited in claim 1 will not be afforded any patentable weight since the final form of the product is a matter of choice to an artisan knowledgeable of the various aspects of use for any particular polymer or blend.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 2 and 16-19 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The Specification fails to teach what may be embraced by the term “cyclic fluorocarbon oxygen-containing polymer.” The term is deemed to embrace vast numbers of polymers that may or may not be employed or even employable in the present invention since they may vary in such broad aspects as melting point, intrinsic viscosity, modality, etc.. The term only requires the polymer to contain oxygen and have cyclic form. The oxygen is not stipulated as being in or of the cycle, or cycles, since there may be polycyclic or bridged units. No examples of what are deemed to be “cyclic fluorocarbon oxygen-containing polymers” are provided. To determine such would require the undue burden of experimentation on the part of the practitioner to make and/or use the invention. No details are provided as to any aspect including structure other than “amorphous,” which is not deemed to be sufficient to define the polymer composition.

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The recitation of “the **co-polymer** (sic) is surface modified” is not supported by the instant Specification. Copolymers are not, per se, surface modified. They may have grafted moieties, may be hydrogenated, etc. but not on the “surface” thereof.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 2, 9-12 and 16-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The recitation of the term “co-polymer” is deemed to be in derogation of the art accepted meaning for the term, as pointed out above. As such, the claims are deemed to be vague and confusing.

The recitation of “the **co-polymer** (sic) is surface modified” is deemed to be vague and confusing. Copolymers are not, per se, surface modified. They may have grafted moieties, may be hydrogenated, etc. but not on the “surface” thereof.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 9-12 and 16-18 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by McCarthy et al (US 5,880,204), newly cited.

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The blend of a polyvinylidene fluoride with an amorphous "cyclic fluorocarbon oxygen-containing polymer" is shown at column 4 (lines 16-39) for the PVdF and column 5 (lines 13-15) for perfluorodioxoles. At column 2 (lines 31-43) the reference teaches the production of films.

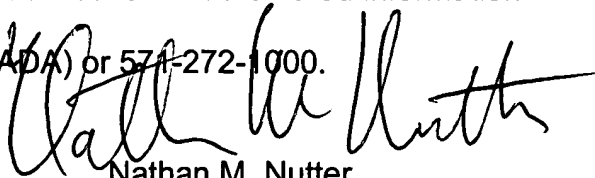
The subsequent use as a film is shown. The choice of application of that film is not relevant to the patentability of the claims. further, the recitation in claim 10 of "a thin membrane having optical transmission" is not deemed to present any patentable weight to the claims since the property is deemed to be inherent to the composition. This is buttressed by the fact that the claims do not recite any parameters that may be indicative to produce such optical transmission."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan M. Nutter whose telephone number is 571-272-1076. The examiner can normally be reached on 9:30 a.m.-6:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James J. Seidleck can be reached on 571-272-1078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read 'Nathan M. Nutter', is written over the end of the paragraph.

Nathan M. Nutter  
Primary Examiner  
Art Unit 1711

nmn

3 June 2006